From the INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY PCT JEAN M. LOCKYER TOWNSEND AND TOWNSEND AND CREW LLP TWO EMBARCADERO CENTER **EIGHTH FLOOR** WRITTEN OPINION SAN FRANCISCO, CA 94111 (PCT Rule 66) Date of Mailing AUG 2004 016325-014000PC (day/month/year) Applicant's or agent's file reference REPLY DUE within 1 months/days from 9/20/04 16325-140PC the above date of mailing International application No. International filing date (day/month/year) Priority date (day/month/year) PCT/US03/17825 04 June 2003 (04.06.2003) 04 June 2002 (04.06.2002) International Patent Classification (IPC) or both national classification and IPC IPC(7): G01N 33/566; A01N 38/18 and US Cl.: 436/501; 435/455; 514/2 Applicant METABOLEX, INC. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority. This opinion contains indications relating to the following items: Basis of the opinion Priority Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV Lack of unity of invention Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI Certain documents cited VII Certain defects in the international application VIII Certain observations on the international application The applicant is hereby **invited to reply** to this opinion. When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d). How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9. Also For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis. For an informal communication with the examiner, see Rule 66.6 If no reply is filed, the international preliminary examination report will be established on the basis of this opinion. The final date by which the international preliminary examination report must be established according to Rule 69 Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450

Form PCT/IPEA/408 (cover sheet)(July 1998)

Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Wutten Opinion repone 9/20/04 DOCKETED ver

Telephone No. (703) 308-0196



International tion No.	
PCT/US03/17825	

I.	. Basis of the opinion				
1.	. With regard to the elements of the international application:*				
	the international application as originally filed				
	the description:				
	pages <u>1-127</u> , 134-137, as originally filed				
	pages 128-133 , filed with the demand				
	pages NONE , filed with the letter of				
	the claims:	•			
	pages 138-140 , as originally filed				
	pages NONE , as amended (together with any statement) under Article 19				
	pages NONE , filed with the demand				
	pages NONE , filed with the letter of				
	the drawings:				
	pages NONE , as originally filed				
	pages NONE , filed with the demand				
	pages NONE, filed with the letter of				
	the sequence listing part of the description:				
	pages 1-161 , as originally filed				
	pages NONE , filed with the demand				
	pages NONE, filed with the letter of				
2.	With regard to the language, all the elements marked above were available or furnished to this Authority language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language	v in the which is:			
	the language of a translation furnished for the purposes of international search (under Rule23.1(b)).				
	the language of publication of the international application (under Rule 48.3(b)).				
	the language of the translation furnished for the purposes of international preliminary examination(u	nder Rules			
	55.2 and/or 55.3).	and Rules			
3.	With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:				
	contained in the international application in printed form.				
	filed together with the international application in computer readable form.				
	furnished subsequently to this Authority in written form.				
	furnished subsequently to this Authority in computer readable form.				
	The statement that the subsequently furnished written sequence listing does not go beyond the disclo	sure in the			
	international application as filed has been furnished.				
	The statement that the information recorded in computer readable form is identical to the written see has been furnished.	quence listing			
4.	The amendments have resulted in the cancellation of:				
	the description, pages NONE				
	the claims, Nos. NONE				
	the drawings, sheets/fig NONE	i			
5.					
J.	This opinion has been drawn as if (some of) the amendments had not been made, since they have been consider beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).	ed to go			
* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in					
this opinion as "originally filed."					

Form PCT/IPEA/408 (Box I) (July 1998)

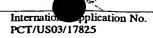




PCT/US03/17825

ш	. 140	n-establishment of opinion with regard to novelty, inventive step and industrial applicability				
1.		ne question whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or be industrially applicable have not been examined in respect of:				
	\boxtimes	the entire international application,				
	Ш	claims Nos.				
		because:				
		the said international application, or the said claim Nos relate to the following subject matter which does not require international preliminary examination (specify):				
		the description, claims or drawings (indicate particular elements below) or said claims Nos are so unclear that no meaningful opinion could be formed (specify):				
		the claims, or said claims Nos are so inadequately supported by the description that no meaningful opinion could be formed.				
	\boxtimes	no international search report has been established for said claims Nos. 1-24.				
2.	2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply					
	WILD 1	the standard provided for in Annex C of the Administrative Instructions: the written form has not been furnished or does not comply with the standard.				
	the computer readable form has not been furnished or does not comply with the standard.					
		/IPEA/408 (Box III) (July 1998)				





_	C 1		
	Supplemental Box (To be used when the space in any of the preceding boxes is not sufficient)		
	TIME LIMIT: The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.		
		•	